IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

Bail Appl..No. 4621 of 2007()

C.R. NO.21/2007 OF THAMARASSERY EXCISE RANGE

PETITIONER/ACCUSED:

SMT.SARADA, W/O.VIJAYAN,
AGED 45 YEARS, POOVARAMMAL VEEDU,
PUTHOOR AMSOM, KEDAYATHOOR DESOM, P.O.MANIPURAM,
KOZHIKODE DISTRICT.

BY ADV. SRI.P.SANTHOSH KUMAR (PANAMPALLI NAGAR)

RESPONDENT/COMPLAINANT:

STATE OF KERALA REPRESENTED BY EXCISE
PREVENTIVE OFFICER, THAMARASSERY EXCISE RANGE,
THROUGH PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No. 4621 of 2007

Dated this the 31st day of July, 2007

ORDER

Application for anticipatory bail. The petitioner, a woman, was allegedly found to be in possession of 2.5 litres of arrack on 07.07.07. She was intercepted. Seizure was effected. But arrest could not be effected as the detecting excise party did not consist of any woman official. Investigation is in progress. The petitioner apprehends imminent arrest. She prays that anticipatory bail may be granted to her.

2. According to the petitioner, she is absolutely innocent. She further contends that she is ill and is laid up. It is, in these circumstances, prayed that anticipatory bail may be granted to the petitioner.

3. The application is opposed and I find merit in that opposition by the learned Public Prosecutor in the facts and circumstances of this case. Even regular bail can be granted to the petitioner only if this Court is in a position to entertain both satisfactions contemplated under Section 41 A of the Kerala Abkari Act. I am satisfied, in the facts and circumstances of this case, that there are no features in this case, which would justify invocation of

the extraordinary equitable discretion under Section 438 Cr.P.C. This I am satisfied is a fit case where the petitioner must appear before the Investigating Officer or the learned Magistrate having jurisdiction and claim regular bail in the ordinary course.

4. This application is, in these circumstances, dismissed. I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-